IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

ST.Rev..No. 324 of 2003

TA.411/1998 OF KERALA SALES TAX APPELLATE TRIBUNAL, ADDITIOINAL BENCH, KOZHIKODE.
.....

PETITIONER/ASSESSEE:

BIJU AND COMPANY, DOOR NO.31/1, MEDICAL COLLEGE, KARANTHUR ROAD, MAYANAD P.O., KOZHIKODE, REPRESENTED BY ITS PARTNER P.G.MANI.

BY ADV. SRI.V.GIRI

RESPONDENT/REVENUE:

STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT, SECRETARIAT, THIRUVANANTHAPURAM.

BY SR.GOVERNMENT PLEADER MR.MOHAMMED RAFIQ

THIS SALES TAX REVISION HAVING COME UP FOR ORDERS ON 18/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

C.M.Appln.No.604 of 2003 &
S.T.Rev.No.324 of 2003

Dated, this the 18th day of July, 2007

ORDER

K.T.Sankaran, J.

This is an application for condonation of delay in filing the revision petition. It is stated in the affidavit as well as the accompanying petition that the delay is 62 days. In the affidavit it is stated thus:

> "It is submitted that the judgment of the Tribunal is dt.17.9.2001. It was stated that copy had been communicated to the Authorised Representative. But, the same was misplaced in the office of the Authorised Representative. An application for fresh copy was thereafter made on coming to know of the order and this was received on 10.11.2002."

2. A counter affidavit has been filed wherein it is stated that the impugned order was communicated to the authorised representative of the petitioner on 4.12.2001 and it was duly acknowledged by him and there is a delay of 825 days in filing the Revision. This statement is not denied by the petitioner by filing any reply. Moreover, the affidavit accompanying the petition for condonation of delay would indicate that the copy was received though no date was mentioned in the affidavit. Even assuming that what is stated by the petitioner is correct, the petitioner is not entitled to exclude the time elapsed after receipt of copy of the order. Therefore, the objection raised by the respondent has to be accepted. The petitioner has not satisfactorily explained

the delay. Accordingly the application seeking condonation of delay is rejected.

Consequently, the revision petition is also dismissed.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns